



# House of Representatives

General Assembly

**File No. 543**

February Session, 2006

Substitute House Bill No. 5749

*House of Representatives, April 18, 2006*

The Committee on Appropriations reported through REP. MERRILL of the 54th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING LOBSTERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1      Section 1. (NEW) (*Effective from passage*) Notwithstanding the  
2      provisions of section 26-157c of the general statutes, as amended by  
3      this act, concerning regulations governing the taking and possession of  
4      lobsters, section 26-295 of the general statutes, concerning the Atlantic  
5      States Marine Fisheries Commission, or the American Lobster Fishery  
6      Management Plan, published by said commission and as amended  
7      from time to time, from July 2, 2006, to July 1, 2007, there shall be no  
8      increase made to the minimum lobster carapace length required for the  
9      possession or sale of lobsters by commercial fishermen licensed by the  
10     Commissioner of Environmental Protection under the authority of  
11     section 26-142a of the general statutes. During said time period, there  
12     shall be no restrictions, other than those required by said commission,  
13     and those in effect as of July 2, 2006, placed on commercial lobster  
14     fishing gear, including, but not limited to, lobster pots and lobster pot  
15     escape vent dimensions, commercial lobster possession limits, day or

16 trip limits or commercial purchases or sales of lobsters by or from such  
17 commercial fishermen.

18 Sec. 2. Section 26-157c of the general statutes is repealed and the  
19 following is substituted in lieu thereof (*Effective from passage*):

20 (a) The Commissioner of Environmental Protection shall adopt  
21 regulations, in accordance with the provisions of chapter 54, governing  
22 the taking of lobsters in the waters of this state and the possession of  
23 lobsters in the state regardless of where taken for the purpose of  
24 conserving and managing the populations of American lobster.

25 (b) Not later than October 1, 2006, the commissioner shall adopt  
26 regulations, in accordance with the provisions of chapter 54, to  
27 implement a lobster trap allocation buy-back program. Said  
28 regulations shall include, but not be limited to, provisions for a  
29 payment of fifteen dollars for each allocated lobster trap permanently  
30 retired from the lobster fishery. Said regulations shall be limited to the  
31 buy-back of lobster trap allocations of resident commercial lobster  
32 fishermen holding lobster trap allocations issued by the commissioner  
33 and who have reported lobster landings between January 1, 1999, and  
34 December 31, 2005, as determined by the commissioner, based on  
35 reports submitted pursuant to section 26-157b, or who have received  
36 license transfers with trap allocations, and shall not require the buy-  
37 back of lobster traps. For purposes of this subsection, "lobster trap"  
38 means lobster pot.

39 Sec. 3. (*Effective July 1, 2006*) The sum of one million dollars is  
40 appropriated to the Department of Environmental Protection, from the  
41 General Fund, for the fiscal year ending June 30, 2007, to implement  
42 the provisions of section 26-157c of the general statutes, as amended by  
43 this act.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	New section
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Sec. 2	<i>from passage</i>	26-157c
Sec. 3	<i>July 1, 2006</i>	New section

**ENV**      *Joint Favorable Subst. C/R*      APP

**APP**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Department of Environmental Protection	GF - Cost	1,000,000	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill requires the Department of Environmental Protection (DEP) to implement a lobster trap allocation buy-back program. The bill appropriates \$1,000,000 to the DEP from the General Fund, for the fiscal year ending June 30, 2007 to implement the program. sHB 5007, the budget, as favorably reported by the Appropriations Committee, provides \$1,000,000 for this program in FY 07.

**The Out Years**

None

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**OLR Bill Analysis****sHB 5749*****AN ACT CONCERNING LOBSTERS.*****SUMMARY:**

This bill appropriates \$1 million to the Department of Environmental Protection (DEP) from the General Fund for FY 2007 to implement a lobster trap (pot) allocation buy-back program, which it requires the DEP commissioner to implement through regulations.

The bill prohibits any increase to the minimum lobster carapace length required for DEP-licensed commercial lobstermen to possess or sell American lobsters from July 2, 2006 to July 1, 2007. The lobster's carapace is the unsegmented portion of its body shell. Carapace length is the straight-line measurement from the rear of the eye socket parallel to the centerline of the carapace to the posterior edge of the carapace.

By law, the Atlantic States Marine Fisheries Commission manages the American lobster population, including setting minimum lobster carapace length (see BACKGROUND), through a fishery management plan. The next increase to the minimum carapace length required for licensed commercial lobstermen to possess or sell lobsters takes effect July 1, 2006.

The bill prohibits restrictions, other than those required by the commission and those in effect as of July 2, 2006, from being placed on commercial lobster fishing gear and sales transactions, including lobster pots and lobster pot escape vent dimensions, commercial lobster possession limits, day or trip limits, or commercial purchases or sales of lobsters by or from commercial fishermen.

EFFECTIVE DATE: Upon passage, except for the \$1 million

appropriation, which is effective July 1, 2006.

### **LOBSTER POT BUY-BACK PROGRAM**

The bill requires the DEP commissioner by October 1, 2006, to adopt regulations to implement a lobster pot buy-back program. The regulations must allow for a \$15 payment for each allocated lobster pot permanently retired from the lobster fishery. The buy-back program is limited to resident commercial lobster fishermen holding lobster pot allocations, which the commissioner issued, who (1) have reported lobster landings as required by law between January 1, 1999 and December 31, 2005, as determined by the commissioner, or (2) have received license transfers with pot allocations. The regulations cannot require anyone to participate in the program.

### **BACKGROUND**

#### ***Atlantic States Marine Fisheries Commission***

The federal Atlantic Coastal Fisheries Cooperative Management law governs lobster management through the Atlantic States Marine Fisheries Commission (16 USC § 5101 et seq.). Connecticut is part of the commission, which means it is required to abide by the commission's management plans (CGS § 26-295 et seq.). Participating states include Maine through Florida, including Pennsylvania. Each state has three representatives on the commission.

Connecticut law requires the DEP commissioner to regulate lobster taking in state waters (CGS § 26-157c). DEP promulgates regulations when the commission mandates a change in the management plan for lobster. For example, on March 28, 2006, the Legislative Regulations Review Committee approved DEP regulations (replacing emergency regulations that were set to expire) that incorporated a 1/32 inch increase to the minimum carapace length for lobster, which the commission's management plan required as of August 11, 2005. These minimum lengths are intended to allow the lobster population the opportunity to regenerate in the Long Island Sound (which the commission designated as management area 6).

**Noncompliance**

Under the Atlantic Coastal Fisheries Cooperative Management law, when the Department of Commerce secretary determines that a state has failed to carry out its responsibilities to implement and enforce the commission's fishery management plan for an area of a state's waters, he must, upon a finding of noncompliance, declare a moratorium on fishing or taking lobster in that fishery (16 USC § 5106). However, the process under the law allows a state the opportunity to come into compliance with actions required under a coastal fishery management plan before the moratorium is set (16 USC § 5105).

**Minimum Lobster Carapace Length**

The current minimum lobster carapace length required for DEP-licensed commercial lobstermen to possess or sell lobsters is 3 and 9/32 inches. The commission's management plan increases the minimum by another 1/32 inch, July 1, 2006.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute Change of Reference

Yea 27      Nay 0      (03/20/2006)

Appropriations Committee

Joint Favorable

Yea 51      Nay 0      (03/31/2006)